IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3801 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VITHALBHAI M PATEL - Petitioner(s)

Versus

DIRECTOR OF EDUCATION PRIMARY) & 3-Respondent(s)

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Appearance :

MR HJ NANAVATI for Petitioner(s) : 1,
FRESH NOTICE REQD(N) for Respondent(s) : 1, 4,
MR ND NANAVATI for Respondent(s) : 2,
MR HS MUNSHAW for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 23/11/2005

ORAL JUDGMENT

1. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions to include the Employees Provident Fund Contribution in the amount of grant payable to the petitioner (hereinafter referred to as “the EPF” for convenience). The petitioner has also prayed to pay the the grant for the salary and allowances of the non-teaching staff employed by the petitioner.

2. Mr.H.J. Nanavati, learned advocate appearing on behalf of the petitioner has fairly conceded and does not press the prayer in terms of para 24(B) with regard to its prayer for to pay the grant for the salary and allowances for

non-teaching staff employed by the petitioner school.

3. In view of the above, now the only grievance / dispute which is requrired to be considered is with regard to the EPF contribution whether to be included in the amount of grant payable to the petitioner or not.

4. Mr.Nanavati, learned advocate appearing on behalf of the petitioner has relied upon the Sub-rule3 of Rule 115 of the Gujarat Primary Education Rules, 1949 in support of his submission. He has submitted that no decision has been taken by the State Government till the date, as to whether the said rule would be applicable or not and whether at the time of paying of grant, the EPF Contribution is required to be included or not. He has submitted that the petitioner would be making a representation pointing out the aforesaid rule and making the

submission before the respondent No.1 and before the Secretary, Education Department within a period of four weeks from today.

5. In case of receipt of the such representation on behalf of the petitioner, the aforesaid two authorities are directed to consider the same and pass appropriate orders in accordance with law and on merits and take an appropriate decision whether the EPF Contribution would be included in the grant or not, as expeditiously as possible, preferably within a period of SIX MONTHS from the date of receipt of such representation from the petitioner.

6. However, it is made clear that no opinion is expressed by this Court on the merits of the case and it is for the aforesaid two authorities to take appropriate decision within the stipulated period as aforesaid.

7. With the aforesaid observations and directions, the present petition stands disposed of.

D.S. Permitted.

(M.R. SHAH,J.)

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